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10/632,863	08/04/2003	Yoshifumi Tanimoto	030817	4619

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EXAMINER	
BIAGINI, CHRISTOPHER D	
ART UNIT	**PAPER NUMBER**
2142	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/632,863	TANIMOTO, YOSHIFUMI	
	Examiner	Art Unit	
	Christopher D. Biagini	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 August 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8/4/2003,12/11/2006,2/16/2007*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. As to claims 1 and 17, it is noted that the limitations "means for transmitting" and "means for storing" meet the requirements for treatment under 35 U.S.C. 112, sixth paragraph. Accordingly, the limitations are to be construed to encompass the corresponding structures in applicant's specification and equivalents thereof. However, applicant's specification lacks any recitation of specific structures which perform the transmitting and storing functions. Therefore, claims 1 and 17 fail to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See MPEP §2181.

4. For the purposes of this examination, the limitations "means for transmitting" and "means for storing" will be construed to cover any means which perform the respective functions.

5. As to claim 14, it is noted that the limitation "means for forming" meets the requirements for treatment under 35 U.S.C. 112, sixth paragraph. Accordingly, the limitation is to be construed to encompass the corresponding structures in applicant's specification and equivalents thereof. However, applicant's specification lacks any recitation of a specific structure which performs the log-forming function. Therefore, claims 14 fails to particularly point out and distinctly claim the subject matter which applicant regards as the invention. See MPEP §2181.

6. For the purposes of this examination, the limitation "means for forming" will be construed to cover any means which performs the respective functions.

7. Any claim not specifically addressed above is rejected for incorporating the deficiencies of a parent claim on which it depends.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 17, 19, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Katsuji (Japanese Publication No. 11-164121).

3. As to claim 1, Katsuji shows an electronic mail client (facsimile apparatus 10) comprising: means for transmitting an electronic mail via a mail server (LAN I/F 16); means for storing a plurality of mail servers and a priority order of the mail servers (memory section 17: see [0017]); wherein a mail server is selected in accordance with the priority order stored in the means for storing an electronic mail is transmitted via the selected mail server (see [0017]), and when failing in the transmission of the electronic mail via the selected mail server, the electronic mail is retransmitted via a mail server of next order (see [0017]-[0022]).

4. As to claim 2, Katsuji shows the limitations of claim 1 as applied above, and further shows wherein when failing in the transmission of the electronic mail, a processing to be executed subsequently is determined in accordance with the contents of the failure (the processing comprising retransmitting the email to another server: see [0020]).

5. As to claim 17, Katsuji shows an electronic mail client comprising: means for transmitting an electronic mail via a mail server (LAN I/F 16); and means for storing a plurality of mail servers and a priority order of the mail servers (memory section 17: see [0017]); wherein a mail server is selected in accordance with the priority order stored in the means for storing and an electronic mail is transmitted via the selected mail server (see [0017]), and when failing in the transmission of the electronic mail via the selected mail server, a processing to be executed subsequently is determined in accordance with

contents of the failure (the processing comprising retransmitting the email to another server: see [0017]-[0022]).

6. As to claim 19, Katsuji shows a recording medium (inherent to any computer-implemented system) which records a program for an electronic mail client (facsimile apparatus 10) which transmits an electronic mail via a mail server, the program comprising: command for storing a plurality of mail servers and a priority order of the mail servers (see [0017]); command for selecting a mail server in accordance with the stored priority order (see [0017]); and command for selecting a mail server of next in order when failing in the transmission of the electronic mail via the selected mail server; wherein the electronic mail can be transmitted via the selected mail server (see [0017]-[0022]).

7. As to claim 20, Katsuji shows a recording medium (inherent to any computer-implemented system) which records a program for an electronic mail client (facsimile apparatus 10) which transmits an electronic mail via a mail server, the program comprising: command for storing a plurality of mail servers and a priority order of the mail servers (see [0017]); command for selecting a mail server in accordance with the stored priority order (see [0017]); and command for determining a processing to be executed subsequently in accordance with contents of a failure when failing in the transmission of the electronic mail via the selected mail server (the processing comprising retransmitting the email to another server: see [0017]-[0022]).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claims 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katsuji (Japanese Publication No. 11-164121).

10. Katsuji shows the limitations of claim 1 as applied above, but does not show wherein the mail server list which stores the plurality of mail servers and the priority order of the plurality of mail servers is formed rewritable. However, the Examiner takes Official Notice that it is notoriously old and well-known in the art to make a data structure rewritable. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Katsuji by making the mail server list rewritable in order to allow a user to alter it in the future.

11. Claims 3-5, 12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katsuji (Japanese Publication No. 11-164121) in view of Shimano et al. (US Pat. No. 4,835,730, hereinafter "Shimano").

12. As to claims 3 and 18, Katsuji shows the limitations of claims 1 and 17 as applied above, but does not show wherein when failing in the transmission of the electronic mail, it is determined whether to select a mail server of next in order, to establish a connection again with the mail server that was selected at the time of the failure in the transmission of the electronic mail, or to cancel the transmission, in accordance with the contents of the failure.

13. Shimano shows determining whether to skip a current operation and move onto another, to retry the operation, or to cancel the operation, in accordance with the contents of a failure (see col. 53, lines 34-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Katsuji with the error recovery decision making of Shimano in order to allow a human user to influence the behavior of the system.

14. As to claim 4, Katsuji in view of Shimano shows the limitations of claim 3 as applied above, and Katsuji further shows wherein when failing in a connection with the mail server, the mail server of the next in order is selected (see [0020]).

15. As to claim 5, Katsuji in view of Shimano shows the limitations of claim 4 as applied above, but does not show wherein when failing in the connection with the mail server, the mail server of the next in order is selected immediately without waiting for an elapse of waiting time. However, the Examiner takes Official Notice that it is notoriously old and well-known in the art to fail over immediately to a redundant resource without

waiting for an elapse of waiting time. It would have been obvious to one of ordinary skill in the art to modify the invention of Katsuji by selecting the next server immediately in order to prevent excessive delays caused by multiple inaccessible servers.

16. As to claim 12, Katsuji shows the limitations of claim 1 as applied above, but does not show wherein a transmitter can determine whether or not to select the mail server of next in order for each transmission of an electronic mail.

17. Shimano shows a user determining whether to skip a current operation and move onto another (see col. 53, lines 34-42). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Katsuji with the error recovery decision making of Shimano in order to allow a human user to influence the behavior of the system.

18. Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katsuji (Japanese Publication No. 11-164121) in view of Shimano (US Pat. No. 4,835,730), and further in view of Postal ("RFC 821: Simple Mail Transfer Protocol").

19. As to claim 6, Katsuji in view of Shimano shows the limitations of claim 3 as applied above, but does not show wherein when the connection with the mail server is established but a temporary error generated during a communication, the connection is established again with the mail server that was selected at the time of the failure in the transmission of the electronic mail.

20. Postal shows wherein a communication with a mail server is established and a temporary error is generated, the connection is established again with a mail server that was selected at the time of the failure in the transmission of the electronic mail (see discussion of "Transient Negative Completion" errors on pp. 48-49). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the invention of Katsuji in view of Shimano in order to accommodate situations where the problem causing the error is likely to have been resolved between requests.

21. As to claim 7, Katsuji in view of Shimano shows the limitations of claim 3 as applied above, but does not show wherein when failing in the transmission of the electronic mail due to incorrect destination, the transmission is cancelled.

22. Postal shows wherein when failing in the transmission of an electronic mail is due to incorrect destination, the transmission is cancelled. See discussion of "Permanent Negative Completion" errors on p. 49 and note that error code 550, which indicates that the destination mailbox is unavailable as described on p. 35, is a permanent error. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the invention of Katsuji in view of Shimano in order to accommodate situations where the problem causing the error is not likely to have been resolved between requests.

23. As to claim 8, Katsuji in view of Shimano and further in view of Postal shows the limitations of claim 7 as applied above, and further shows wherein when failing in the

transmission of the electronic mail due to the incorrect destination, the transmission is cancelled (see above), but does not show that a message indicating such a fact is output.

24. Postal shows wherein a message indicating such a fact is output (comprising returing a 550 Failure reply: see the last paragraph of p. 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the invention of Katsuji in view of Shimano and Postal with the message output of Postal in order to alert users that a permanent error has occurred.

25. Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katsuji (Japanese Publication No. 11-164121) in view of Glasser et al. (US Pat. No. 5,956,715, hereinafter "Glasser").

26. As to claim 9, it is noted that the limitation "means for storing whether or not to select a mail server of next in order for each transmitter or for each destination" meets the requirements to be treated under 35 U.S.C. 112, sixth paragraph. See MPEP §2181. The corresponding structure in applicant's specification is described on p. 6-8 as a permission table which stores whether particular users ("transmitters") have permission to use alternative SMTP servers.

27. Katsuji does not show a permission table. Glasser shows a permission table (comprising an "access control list": see col. 4, lines 60-64) which stores whether particular users have permission to use "many different kinds of resources" on a

network (see col. 10, lines 63-65). It is noted that there are insubstantial differences between the access control list of Glasser and the permission table described in applicant's specification. Both are lists that associate users with the permissions of those users to access network resources (see Glasser, col. 1, lines 54-58).

28. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Katsuji with the permission table of Glasser in order to prevent a user from having unlimited access to all server resources (see Glasser, col. 1, lines 45-47).

29. As to claim 10, Katsuji in view of Glasser show the limitations of claim 9 as applied above, and note that the bypass permission table which stores whether or not to select a mail server of next in order for each transmitter or for each destination (comprising the permission table as described above) can be formed and rewritten (see Glasser, col. 8, line 55 to col. 9, line 3).

30. As to claim 11, Katsuji shows the limitations of claim 1 as applied above, but does not show wherein there is a limit on whether or not to select a mail server of next in order according to a level of authority of a transmitter.

31. Glasser shows limiting access to network resources according to a level of authority of a user (see col. 1, lines 54-58). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the invention of Katsuji with

the authority system of Glasser in order to prevent a user from having unlimited access to all server resources (see Glasser, col. 1, lines 45-47).

32. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Katsuji (Japanese Publication No. 11-164121) in view of Witek (US Pat. No. 5,461,488).

33. As to claim 14, Katsuji shows the limitations of claim 1 as applied above, but does not show a means for forming a transmission log; wherein "transmission date and time," "destination," "mail server that was used," and "transmission result" are written in the transmission log.

34. Witek shows a means for forming a transmission log (control code 22) which logs a variety of information (see col. 4, lines 32-56). It would have been obvious to modify the invention of Katsuji with the logging taught by Witek in order to store event information for subsequent reference and future use (see Witek, col. 4, lines 35-36).

35. As to claim 15, Katsuji in view of Witek shows the limitations of claim 14 as applied above, but does not show wherein the transmission log is formed for each Transmission Control Protocol (TCP) connection.

36. Witek shows logging a variety of information (see col. 4, lines 32-56). It would have been obvious to modify the invention of Katsuji with the logging taught by Witek in order to store event information for subsequent reference and future use (see Witek, col. 4, lines 35-36).

37. As to claim 16, Katsuji in view of Witek shows the limitations of claim 14 as applied above, but does not show wherein the transmission log is formed for each Simple Mail Transfer Protocol (SMTP) connection.

38. Witek shows logging a variety of information (see col. 4, lines 32-56). It would have been obvious to modify the invention of Katsuji with the logging taught by Witek in order to store event information for subsequent reference and future use (see Witek, col. 4, lines 35-36).

Conclusion

39. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

40. The USENET post "more than one smtp server" describes Pine, a Unix email client which can be configured to use a list of SMTP servers. As described in the document, Pine will move to the next server in the list upon detecting an error.

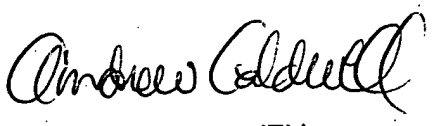
41. The document "Mac mail" describes the Apple Mail email client, which prompts users to choose another SMTP server from a list upon detecting an error.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Biagini whose telephone number is (571)

272-9743. The examiner can normally be reached on M-R 7:30-5, 7:30-4 alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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